

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) CASE NO. 8:06CR202  
                                  )  
Plaintiff,                    )  
                                  )  
vs.                            )  
                                  )  
ANTHONY BIRDINE,            )  
                                  )  
Defendant.                    )

This matter is before the Court on the Defendant's pro se motion to reopen his § 2255 proceeding (Filing No. 149).

On April 20, 2010, the Court issued a Judgment denying the Defendant's § 2255 motion. Claims One, Three, and Four were dismissed on initial review, and Claim Two was denied on its merits. The Court denied the Defendant's motion for reconsideration. This Court and the Eighth Circuit Court of Appeals denied the Defendant's motion for a certificate of appealability. On January 12, 2011, the Eighth Circuit denied the Defendant's petition for rehearing en banc and for rehearing by the panel.

The Defendant now requests relief under Federal Rule of Civil Procedure 60(b)(4) and (6). He raises new, novel arguments. Nevertheless, he may not relitigate his § 2255 motion through Rule 60(b) in what is essentially a successive motion filed without the Eighth Circuit's approval. *United States v. Matlock*, 107 F. App'x 697, 698 (8<sup>th</sup> Cir. 2004); *Mathenia v. Delo*, 99 F.3d 1476, 1480 (8<sup>th</sup> Cir. 1996).

IT IS ORDERED:

1. The Defendant's motion to reopen his § 2255 proceeding (Filing No. 149) is denied; and

2. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

DATED this 4<sup>th</sup> day of April, 2012.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge